IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.40 OF 2004

IN

EXECUTION (LOD) NO.453 OF 2002

IN

SUMMARY SUIT NO.3828 OF 1999

M/s. Marine Container Services ..Plaintiff.

V/s.

Rajesh Dhirajlal Vora ..Defendant.

Mr.N.Engineer i/b. Bilawala for plaintiff.

Mr.Vijay Pandey i/b. D.K. Shukla for defendant.

CORAM : J.P.DEVADHAR, J.

DATED : 10TH DECEMBER,2004.

P.C. :-

. Heard. The chamber summons is taken out by the plaintiff seeking an order that the defendant be detained in Civil Prison for such period as the Court deems fit for committing wilful disobedience of the order dated 9th June, 2003 passed in Execution Application (Lodg.) No.453 of 2002 in Summary Suit

No.3828 of 1999.

2. By a Judgment dated 7/8/2002 as modified on 28/2/2002 the aforesaid Summary Suit No.3828 of 1999 was decreed in favour of the plaintiff and against the defendant for Rs.2,65,00,000/-. Before the said decree was passed, on a Notice of Motion taken out by the plaintiff seeking attachment before Judgment, this Court by an order dated 21st March, 2001 had directed the defendant to furnish security to the satisfaction of the Court in the sum of Rs.2,08,00,000/- and in the alternative to disclose the details of the assets of the defendant on an affidavit. However, the defendant neither furnished the security nor disclosed the particulars of the assets held by him.

3. After the passing of the decree, the plaintiff took out chamber summons No.1505 of 2002 under order 21 Rule 41 of the Code of Civil Procedure seeking order that the defendant be directed to disclose on oath the particulars of all assets, both movable and immovable belonging to him and owned by him either singly or jointly with any person or persons and/or in any capacity. By an order dated 9th June, 2003 the chamber summons was allowed and

the defendant was directed to file an affidavit stating the particulars of the assets of the defendant. However, till date the defendant has not filed an affidavit disclosing the assets held by him. In these circumstances, the present chamber summons is taken out by the plaintiff.

4. Admittedly, the present chamber summons has been served upon the defendant on 20/1/2004. However till date the defendant has neither chosen to file affidavit disclosing the assets held by him nor any reply has been filed in reply to the chamber summons. The learned counsel appearing on behalf of the defendant seeks 4 weeks time to file affidavit in reply on the ground that he has no instructions in the matter.

5. In my view, from the aforesaid conduct of the defendant, it is abundantly clear that the defendant has scant regard to the judiciary and the conduct of the defendant in refusing to file affidavit on oath disclosing the assets held or belonging to him clearly constitutes wilful disobedience of the Court order. In this view of the matter, in my opinion, this is a fit case for passing an order under Order 21 Rule 41 of the Code of Civil Procedure to detain

the defendant in Civil Prison. Accordingly, the defendant is ordered to be detained in Civil Prison for a period of one month from the date of execution of the arrest warrant for wilfully disobeying the Court’s order dated 9/6/2003. The chamber summons is allowed in the above terms.

6. The office is directed to take steps to implement this order and issue arrest warrant as expeditously as possible in accordance with law.

7. At this stage, the learned counsel for the defendant seeks stay of this order for a period of 4 weeks. The application is rejected.

. C.C. expedited.

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